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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,594	01/24/2002	Michael Kozak	094/IUS (5500261)	3456

26995 7590 12/12/2003

AIKINS, MACAULAY & THORVALDSON  
30TH FLOOR COMMODITY EXCHANGE TOWER  
360 MAIN STREET  
WINNIPEG, MB R3C 4G1  
CANADA

EXAMINER
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JOHNSON, RAYMOND B

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/53,591

Applicant(s)

Kozak Michael

Examiner

Johnson, R.B.

Group Art Unit

365

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 1/24/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.
- Of the above claim(s) 1-4 and 14 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) ~~1-14~~ 5-13 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-14 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

### **OFFICE ACTION**

1. The documents submitted in the IDS (paper No. 2) have been considered.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-4 and 14, drawn to vehicle rotator, classified in class 211, subclass 1.51.
  - II. Claims 5-13, drawn to vehicle display lift and rotator, classified in class 414, subclass 639.
3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination (e.g. claim 5) does not required the particulars (e.g. annular races and roller bearing) of the subcombination (e.g. claim 1). The subcombination has separate utility such as alone as a recreation apparatus or in combination with food or furniture as a display apparatus.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. During a telephone conversation with Mr. M. E. Thrift on Dec. 9, 2003 a provisional election was made with traverse to prosecute the invention of Group II, claims 5-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-4 and 14 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. The brief description of Figures 6 and 7 on page 3, lines 2-5 appear to be inaccurate. Fig. 3 does not show lines 6. Lines 6-6 appear in Fig. 2.

7a. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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8. Claims 5-8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over IDS cite No. 1A in view of Jauch et al and Astill (6, 32) IDS cite No 1.

1A shows the claimed apparatus except for the wheel pads (claims 7-8) and the recited column mount and drive for rotation the vehicle support platform. See elements 21, 24; 23 and "bolts" (mount) page 2, lines 33-46; 20 (platform); 25; and 10-11.

Jauch et al disclose the recited wheel pads and column mount for a vehicle platform and Astill show the recited motor (power means) for rotating a vehicle platform.

It would have been obvious to construct the vehicle handling apparatus of 1A with the "column" mount of Jauch et al in lieu of the noted mount (23, "bolts") because the respective mounts are known equivalent support means that perform the same function in the same organization to produce the same results. To use power drive means as taught by Astill in lieu of manual means to pivot the vehicle platform of 1A would have been obvious because it is well settled that it is not a patentable innovation to broadly provide power means to replace a manual operation. It would have been obvious to modify 1A with wheel chocks "pads" for the purpose of maintaining the vehicle on the platform because it is a user known safety expedient as taught by Jauch et al.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over reference 1A in view of Jauch et al and Astill as applied to claims 5 and 8 ~~5 and 8~~ in section above, and further in view of the teachings of either Kendrick (2-4, 8) or Weaver (57-59, pages 1 and 3 lines 26-27, and 50-56, respectively).

Reference 1A as modified shows and/or renders obvious the claimed apparatus except the recited pivotal movement of the tracks. Kendrick and Weaver teach the desirability of pivoting vehicle supporting tracks for the purposes of repairing and displaying the vehicle. Thus, it would have been obvious to construct 1A's apparatus with means to pivot the vehicle sidewise because of the teaching of the prior art as represented by the applied latter secondary references.

10. Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over reference 1A in view of Jauch et al and Astill as applied to claims 5-8, and 12 in section 8 above, and further in view of Ackerman (note elements A and B, Figs 1 and 3).

Reference 1A, per section 8 above shows/render obvious the claimed apparatus except for the recited hydraulic cylinder and telescopic member. Ackerman, described above, teaches the use of a hydraulic cylinder and telescopic member to lift/elevate the support base/tracks of a vehicle lift. Thus, it would have been obvious to modify 1A with a conventional hydraulic lift for the purpose of lifting or elevating the support base/tracks.

11. Claims 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stukenborg in view Astill and 1A/IDS.

Stukenborg (Figs 1-2 and 5) with respect to claims 5 and 10 shows the claimed apparatus except for an explicit disclosure of the recited conventional bearings and drive means for the rotatable vehicle support structure A (page 4, lines 84-88). Astill (6,

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32) show drive means to rotate a vehicle support structure. 1A/IDS (20, 24-25) show bearing means for a rotatable vehicle platform.

It would have been obvious to modify Stukenborg's apparatus with conventional bearing as taught by 1A for rotating the vehicle support structure for the known purpose of providing easy rotation of said structure because it is taught by 1A. It would have been equally obvious to modify Stukenborg by providing power means in lieu of manual means to rotate the vehicle structure because of the teachings of Astill. It is well settled that it is not a patentable innovation to broadly replace manual means with conventional power means.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The pertinent portions of the prior art is referenced to by numerals and/or Figs.

F(22, 34, 40 and column 3, lines 50-53).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Johnson whose telephone number is (703) 308-2565. The examiner can normally be reached on Monday-Thursday from 6:30-7:30 A.M. to 5:00-6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, E. D. Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



**EILEEN D. LILLIS**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*10/12/03*  
Johnson/kn  
October 3, 2003